IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/01/2003

CORAM

THE HONOURABLE MR.JUSTICE A.S.VENKATACHALAMOORTHY
AND
THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

A.S.No.250 of 1987 and A.S.No. 783 of 1987

1. Rathinam Pillai
2. Jayaraman .. Appellants in AS 250/87
and Respondents 1 & 2 in
AS 783/87

-Vs-

1. Chellammal .. First Respondent in AS
250/87 and Appellant in
AS 783/87

2. Chinnaswamy .. 2nd Respondent in AS 250/87

3. Seeli Naicker
4. Ponnuthayammal @
Ammani Ammal
5. Minor Somu
6. Minor Balakrishnan
7. Minor Sadhasivam
8. Minor Sethu
9. Sundari
10.Minor Kanagu
(Minors RR5 to 8 and
R10 are represented
by their mother and
guardian Ponnuthayammal
@ Ammani Ammal) .. Respondents 3 to 10 in
both appeals

Both the appeal suits are preferred under S.96 of The Code of Civil Procedure against the judgment and decree dated 31.12.1986 made in O.S.No.114 of 1982 on the file of the Subordinate Judge, Dindigul.

! For Appellants in
AS 250/87 and
Respondents 1 and
2 in AS 783/87 : Mr.S.M.Hameed Mohideen

^ For 1st Respondent
in AS 250/87 and
Appellant in
AS 783/87 : Mr.P.Jothiram

For Respondents
4 to 9 in AS 250/87
and Respondents 4
to 8 & 10 in
AS 783/87 : Mr.V.Natarajan

Other respondents
in both appeals : No appearance

:COMMON JUDGMENT
M.CHOCKALINGAM, J.
This judgment shall govern the two apeals viz. A.S. 250 and 783 of 1
987.
2. These two appeals have arisen from the judgment of the learned Subordinate Judge, Dindigul made in O.S.No.114/82, a suit for partition, which was jointly tried along with O.S.Nos.195 and 196 of 1983.
3. The appellant in A.S.No.783/87 along with her brother Chinnasamy filed the said suit for partition against the appellants in A.S.No.25 0/87 who were shown as defendants 1 and 3 and against so many others. The trial Court granted a preliminary decree for partition and separate possession allotting 13/15th share in the 'A' Schedule property, while it rejected the claim of the plaintiffs in respect of the immovable properties covered under suit 'B' Schedule. Aggrieved over the denial of their claim in respect of 'B' Schedule, the first plaintiff has brought forth A.S.No.783/87. The defendants 1 and 3 who were aggrieved over the grant of the preliminary decree in favour of the plaintiffs in respect of the 'A' Schedule property have preferred A.S. No.250/87.
4. The plaintiffs have alleged in the amended plaint as follows:
Sundaram Pillai and his brother Muthiah Pillai along with Shanmugavel Pillai purchased the property under 'A' Schedule and enjoyed the same jointly. Muthiah Pillai and Sundaram Pillai constituted members of an undivided joint Hindu family. Muthiah Pillai died leaving his wife Thayammal as his heir, and on his death, she became entitled to 1 /3rd share of her husband. Sundaram Pillai died, and as per the provisions of Hindu Succession Act, 1956, the mother of the plaintiffs became entitled to his 1/3rd share. The property was improved with the income from 'A' Schedule property. 'B' Schedule properties were also purchased from and out of the income from 'A' Schedule property. The plaintiffs' father had no right to lease the entire 'A' Schedule property, and the alleged lease is also hit by lis pendens. The 4th defendant even if he is held to be a lessee, can claim right only against the 1/3rd share of Shanmugavel Pillai and is not entitled to or claim possession of 'A' Schedule property. Shanmughavel Pillai died on 27.12.81 leaving the plaintiffs, their mother and the defendants 1 and 2 as heirs, and in the 1/3rd share of Shanmughavel Pillai, the said five became entitled to 1/5th share. The mother of the plaintiffs died on 28.12.81. On her death, the plaintiffs became entitled to 1 3/15th share in the suit properties. She executed a Will on

21.3.78 bequeathing her right in the 'A' Schedule property in favour of the first plaintiff, and thus, 2/3rd share in that property belonged to the first plaintiff. In respect of 'B' Schedule properties, the plaintiffs are entitled to 13/15th share together. Shanmugavel Pillai became bedridden and lost his reasoning capacity, and he had no capacity to execute any Will. The alleged Will is a forged one. The same was brought about by the defendants 1 and 2 by exercising undue influence and coercion over him. Neither the defendants nor their sons are entitled to claim any right in the suit properties under the alleged Will. Hence, the suit may be decreed as prayed for.

5. The defendants 1 to 3 filed a written statement with the following averments:

Sundaram Pillai and Muthiah Pillai were undivided brothers. Muthiah Pillai died in the year 1918 leaving his brother Sundaram Pillai as his coparcener. As per the law prevailing then, the share of Muthiah Pillai devolved upon his undivided coparcener. After the death of Muthiah Pillai, Sundaram Pillai and Shanmugavel Pillai have become the owners of the suit 'A' Schedule property. Sundaram Pillai was not interested in the worldly life, and he orally gifted his right in the 'A' Schedule property to his sister's son Shanmugavel Pillai. Shanmugavel Pillai got the patta transferred in his name, and he was paying kists. He was in continuous, open and uninterrupted possession of the said property as absolute owner from 1920 till his death. Sundaram Pillai died on 20.12.1961. Shanmugavel Pillai had separate income, and only out of those income, he purchased the properties covered under 'B' Schedule. He executed a registered Will on 8.10.79 in respect of 'A' Schedule property in favour of the third defendant and the sons of the 2nd defendant. So, the plaintiffs cannot claim any share in the said property. 'B' Schedule properties are his self acquired properties. He also executed a registered Will on 27.3.78 in favour of his sons, the defendants 1 and 2. The plai ntiffs have no locus standi to claim any share in those properties. Gangayammal, the mother of the plaintiffs had no interest in any of the suit properties, and so, the plaintiffs cannot claim any share in those properties. Shanmughavel Pillai had voluntarily executed those two Wills in a sound state of mind. The plaintiffs have no right to question those Wills. Hence, the suit may be dismissed with costs.

6. In the written statement filed by the 4th defendant it is alleged that the plaintiffs have no right or possession in 'A' Schedule property; that Shanmugavel Pillai who was the exclusive owner of the said property had leased out the same him; that he was in exclusive possession and enjoyment of the same; that since the plaintiffs have no right or interest in the 'A' Schedule property, they have no locus standi to dispute the lease agreement; that the patta for the said property stood in the name of Shanmughavel Pillai; and hence, the suit has to be dismissed with costs.

7. The third defendant filed an additional written statement stating that after the demise of Shanmugavel Pillai, the third defendant and the sons of the 2nd defendant have become the absolute owners of the suit 'A' Schedule property as per the Will dated 8.10.79; that the sons of the 2nd defendant who have also interest in 'A' Schedule property are necessary and proper parties to the suit, and in the absence of the same, the suit is bad for non-joinder of necessary parties; and that the plaintiffs are not entitled to the reliefs claimed in the plaint.

8. On the above pleadings, the trial Court framed 11 issues and one

additional issue, tried the suit and granted a preliminary decree in respect of 'A' Schedule alone. Thus, these two appeals have arisen as referred to above.

9. With consent of both sides, the following additional issue is framed:

"Whether Shanmugavel Pillai acquired title to the 'A' Schedule property by adverse possession?"

Both sides would submit that the evidence recorded by the lower Court and available on hand would be sufficient to decide the said additional issue.

10. Arguing for the appellants in A.S.No.250/87, the learned Counsel would submit that the lower Court should have dismissed the suit in entirety, but has erred in decreeing the suit for partition in respect of 'A' Schedule properties; that in view of the pleadings coupled with the evidence, the lower Court should have on the admitted case that Sundaram Pillai and his brother Muthiah Pillai were undivided coparceners held that on the death of Muthiah Pillai in the year 1918, his undivided interest devolved on his elder brother Sundaram Pillai by survivorship under the law governing the case and no interest in the property could devolve upon Gangayee Ammal, the widow of Shanmughavel Pillai; that the lower Court took an erroneous view that Gangayee Ammal had right to maintenance and that right of maintenance was a limited interest and as such the same enlarged into an absolute estate under Hindu Succession Act of 1956; that it is pertinent to note that in order to apply the provisions of S.14(1) of the Hindu Succession Act, 1956, the said Gangayee Ammal should have been in possession of any of the properties in question, but in the instant case, there is no iota of evidence to show that Gangayee Ammal was in possession of any of the properties, and hence, no question of limited interest or its enlargement into an absolute estate as contemplated under the said provision of law would arise, and thus, on the pleadings and evidence, nothing was made out for an estate for maintenance either in 1918 when Muthiah Pillai died or thereafter to sustain the legal plea of enlargement of limited interest into an absolute estate under Hindu Law; that it is borne out by the documentary evidence that the suit properties are agricultural lands, and thus, the provisions of the Hindu Women's Right to Properties Act, 1937 as amended cannot have any operation in respect of the suit properties, and hence, it cannot confer any enforceable right to property on the widow of Muthiah Pillai; that Sundaram Pillai could not derive any interest in the estate of his brother Muthiah Pillai on the death of Thayammal and did not derive any such interest or estate prior thereto; that it is not correct to state that Thayammal, the plaintiffs' predecessor died in the year 19 65, and she survived Sundaram Pillai and consequently became a legal heir to the estate of Sundaram Pillai in respect of the suit property; that the interest of Sundaram Pillai in the suit property never devolved upon Gangayee Ammal, the brother's daughter, and she did not become entitled to 1/3rd interest in the suit property, as recorded by the lower Court; that the finding of the lower Court that the plaintiffs became entitled to 1/3rd share of Muthiah Pillai and also 1/3rd share of Sundaram Pillai under law, and thus, they became entitled to 2/3rd share in the 'A' Schedule property was factually and legally incorrect; that the appellants/defendants placed sufficient oral and documentary evidence to prove the plea of gift of Sundaram Pillai in favour of Shanmughavel Pillai on the renunciation of worldly life by Sundaram Pillai and his becoming a Sanyasi, and in this regard, the lower Court has not properly

construed the evidence on record and admissions made by the plaintiffs; that while the lower Court has properly held that 'B' Schedule properties were self acquisitions of Sundaram Pillai, and the plaintiffs cannot sustain a claim for their share, it should not have granted a decree for 2/3rd share to the plaintiffs in 'A' Schedule properties, but on the contrary it should have held that the plaintiffs are not entitled to any share in the 'A' Schedule properties; that it was neither factually nor legally correct to state that the plaintiffs and the predecessors in interest were in joint possession of 'A' Schedule properties along with Shanmughavel Pillai, and hence, the lower Court should have held on the evidence on record that Shanmughavel Pillai was in exclusive possession of 'A' Schedule properties in the same manner as he was in respect of 'B' Schedule properties; that the defendants have pleaded that Shanmughavel Pillai was in continuous, open and uninterrupted possession of 'A' Schedule properties as absolute owner from the year 1920 till his life time, and thus, he was in exclusive possession of the suit property as the owner for more than the statutory period as required by law; that Shanmughavel Pillai has possessed title to the property by adverse possession, and hence, the lower Court should have framed an issue in that record and recorded a finding on the available evidence that the entire property under 'A' Schedule belonged to Shanmughavel Pillai; and that the facts that Shanmughavel Pillai was in possession, and he made improvements thereon, and he also made payments of kist, house tax and electricity charges and coupled with the documentary evidence viz. Adangal extracts and patta in his name, would clinchingly prove his continuous possession adverse to the interest of the other joint owners. Added further the learned Counsel that the lower Court should have held that Ex.B83 Will dated 8.10.1977 executed by Shanmughavel Pillai was true, genuine, valid and binding on the parties; that the defendants have examined one of the attesting witnesses viz. D.W.4, through whom the execution and attestation of the document has been clearly proved; that the reasons adduced to hold that Ex.B83 Will was not genuine were flimsy and untenable; that it is pertinent to note Ex.B8 3 was a registered Will; that the other side was unable to point out any suspicious circumstances either on the execution or on the attestation of the testament, and under such circumstances, the lower Court should have held that Ex.B83 is true and genuine, as contended by the defendants, and thus, the lower Court should have outright rejected the claim of the plaintiffs in respect of 'A' Schedule properties; that insofar as 'B' Schedule properties, the lower Court has correctly assessed the evidence adduced by the defendants both oral and documentary and have recorded a finding that those properties were self acquisitions of Shanmughavel Pillai, and hence, the appeal filed by the defendants 1 and 3 in A.S.250/87 has got to be allowed, and the appeal filed by the plaintiffs in A.S.783/87 has got to be dismissed.

11. Assailing the judgment of the Court below with regard to the dismissal of the suit in respect of the immovable properties covered under 'B' Schedule, the learned Counsel for the appellant in A.S.783/87 would submit that the lower Court should have decreed the suit for partition in favour of the plaintiffs in respect of 'B' Schedule also; that the lower Court has dismissed the claim of the plaintiffs in respect of 'B' Schedule solely on the ground that the properties covered thereunder stood in the name of Shanmughavel Pillai; that it remains to be stated that no presumption could be drawn that 'B' Schedule properties were self acquisitions of Shanmughavel Pillai, since they stood in his name; that it is an admitted fact that the

properties covered under 'A' Schedule were purchased by Sundaram Pillai, Muthiah Pillai and their sister's son Shanmughavel Pillai in the year 1917; that on the death of Muthiah Pillai in 1918, his wife Thayammal had a right of maintenance over his 1/3rd share, which limited interest became absolute after the Hindu Succession Act, 1956 coming into force; that on the death of Sundaram Pillai in 1961 and as per the provisions of the Hindu Succession Act, the plaintiffs' mother became entitled to 1/3rd share, and thus, they were all enjoying the properties jointly; that the plaintiffs' father as a male member was looking after the family affairs and cultivating the lands; that only from the income of 'A' Schedule properties, all the properties mentioned in 'B' Schedule were purchased; that it is pertinent to note that Shanmughavel Pillai had no other source of income; that it is an admitted position that Thayammal died leaving the plaintiffs' mother as her legal heir, and on her death, the plaintiffs became entitled to 1/3rd share in the suit properties, and under such circumstances, the lower Court should have granted the relief of partition in respect of 'B' Schedule properties also; that both the Wills executed by Shanmughavel Pillai under Exs.B83 and B86 were not valid and not binding on the plaintiffs, since Shanmughavel Pillai has executed the Wills in respect of suit 'A' and 'B' Schedule properties respectively, as if he was the absolute owner of those properties; that the available evidence would clearly indicate that he purchased 'B' Schedule properties out of the income of 'A' Schedule properties, which he was managing on behalf of the joint owners, and under such circumstances, the judgment of the lower Court denying the relief of partition in respect of 'B' Schedule properties has got to be set aside, and a preliminary decree in that regard has got to be granted in favour of the plaintiffs, and the appeal filed by the defendants in A.S.No.250/87 has got to be dismissed.

12. The admitted facts are as follows:
Sundaram Pillai and Muthiah Pillai are brothers, while Shanmughavel Pillai is their sister's son. Thayammal is the wife of Muthiah Pillai. Shanmughavel Pillai married Gangayee Ammal, the daughter of Thayammal, after the death of his first wife Lakshmi Ammal. The plaintiffs are the children of Shanmughavel Pillai and his second wife Gangayee Ammal, while the defendants 1 and 2 are the sons of Shanmughavel Pillai and his first wife Lakshmi Ammal. The third defendant is the son of the first defendant. On the death of the second defendant during the pendency of the suit, his legal representatives were added as defendants 5 to 11. The fourth defendant is the lessee in respect of 'A' Schedule property.
13. As could be seen above, the plaintiffs who are the children of Shanmughavel Pillai through his second wife, have made their claim for partition in the suit property, which is mainly contested by the children of the said Shanmughavel Pillai through his first wife. There is no controversy between the parties that 'A' Schedule property consisting of only one item of immovable landed property in Survey No.190 , Kambiliampatty Village with an extent of 3 acres and 11 cents was purchased by the two brothers viz. Sundaram Pillai and Muthiah Pillai and their sister's son Shanmughavel Pillai under Ex.A1 original sale deed dated 12.3.1917. Since the suit property was purchased by them and no material is available to indicate that what was the part of the consideration made by them, it has to be necessarily inferred that they were joint owners of the property each entitled to 1/3rd share. It is

not in dispute that Muthiah Pillai died in the year 1918. The contention of the plaintiffs' side that Muthiah Pillai and his brother Sundaram Pillai were members of a coparcenary, and on the death of Muthiah Pillai in the year 1918, the property devolved on his brother as a surviving coparcener cannot be countenanced for the simple reason that the property was purchased by Sundaram Pillai, Muthiah Pillai and Shanmughavel Pillai, and all were contributing for the purchase, and they became joint owners of the property, and hence, the property cannot be attributed with the character of coparcenary property.

14. The next contention put forth by the plaintiffs' side and accepted by the lower Court that at the time of the death of Muthiah Pillai in the year 1918, his wife Thayammal had limited interest in the property, which belonged to her husband; that she had a right of maintenance; that Sundaram Pillai could have inherited the property as the heir of Muthiah Pillai on the death of Muthiah Pillai, and Thayammal died only in the year 1965, and hence, the limited interest of Thayammal in the property got enlarged into an absolute estate under the provisions of the Hindu Succession Act, 1956 cannot be accepted. It is true that the wife of Muthiah Pillai, Thayammal had a right of maintenance, but it cannot be stated that she had any limited interest over the property, which belonged to her husband. In order to give effect to S.14(1) of the Hindu Succession Act for the enlargement of a limited interest in the property, the property should have been possessed by the concerned Hindu female. But, in the instant case, no material is available to hold that Thayammal ever possessed any part of the properties in question; and that there was any limited interest, which would become enlarged by the operation of S.14(1) of the Act. Mere right of maintenance will not be sufficient to attract or for application of the provisions under S.14 of the Act.

15. The case of the defendants that Sundaram Pillai had renounced all his interest in the worldly affairs and became a Sanyasi, when he was around 20; and that he made an oral gift of his 2/3rd shares in the properties which belonged to Muthiah Pillai and Sundaram Pillai to Shanmughavel Pillai has got to be rejected for more reasons than one. Oral gift of the immovable properties covered under 'A' Schedule even if made, as contended by the defendants, cannot be valid in law. As stated above, Sundaram Pillai could not have become entitled to 1/3rd share of his brother Muthiah Pilai, and hence, the contention of the defendants' side that Shanmughavel Pillai acquired the ownership in respect of 2/3rd shares in the property by an oral gift made by Sundaram Pillai cannot be legally sustained. It was brought to the notice of the Court that though specific averments were made in the written statement by the defendants 1 and 2 that Shanmughavel Pillai by his open, continuous and uninterrupted possession of the suit properties for more than the statutory period has acquired title to the properties by adverse possession, the lower Court has not framed the necessary issue in that regard. This Court has framed the above additional issue. It was submitted by both sides that in order to decide the said additional issue, no more evidence either oral or documentary was required. After careful consideration of the submissions made by the learned Counsel for the appellants/defendants 1 and 3, the Court has to necessarily reject the plea of adverse possession put forth by the defendants. Admittedly, 'A' Schedule property was purchased by Muthiah Pillai, Sundaram Pillai and Shanmughavel Pillai by their contributions made towards the consideration, and thus, they became the joint owners of the suit

property. At the time of the death of Muthiah Pillai in the year 1918, his wife Thayammal was well alive having a right of maintenance, though not had a charge over the property. Ample evidence is present to indicate that Sundaram Pillai was leading a life of Sanyasi. But, no material is available to show that he had either ever relinquished his rights in favour of or handed over the properties to Shanmughavel Pillai. Taking into consideration the age of D.W.1 at the time of evidence, he could have born in or about 1945 . He was not a competent witness to speak about the manner of enjoyment of the properties after the life time of Muthiah Pillai.

16. The learned Counsel for the appellants/defendants pointed out that the pattas in respect of the suit property were transferred in the name of Shanmughavel Pillai, and he was making payment of kists. Since the property was jointly purchased by all the three in the year 1 917 and Muthiah Pillai died in the year 1918 and Sundaram Pillai did not evince interest over the properties, the patta for the properties should have been obtained in the name of Shanmughavel Pillai, and he was making payment of kists. No doubt, this could not be indicative of the fact that the said Shanmughavel Pillai asserted his title against the true owners and enjoyed the property as exclusive owner. Shanmughavel Pillai was in management of 'A' Schedule property all along. But, neither the management for a long period of time nor continuous enjoyment would be sufficient to hold that he acquired title to the property by adverse possession. Not only the defendants have fail to prove by requisite evidence the plea of adverse possession, but also the facts and circumstances of the instant case would lead to the inescapable conclusion that the said Shanmughavel Pillai has been managing the property all along on behalf of Sundaram Pillai and heirs of Muthiah Pillai. Sundaram Pillai died issueless and intestate in the year 1961. The plaintiffs are the grandchildren of Thayammal, the wife of Muthiah Pillai. Thayammal died intestate in the year 1965 leaving behind her daughter Gangayee Ammal as her sole heir, and thus, at the time of the death of Sundaram Pillai, the only heir who was available, was Gangayee Ammal. On the death of Gangayee Ammal, they became entitled to the said share by operation of law. Thus, the defence put forth by the defendants denying the claim of the plaintiffs in respect of 'A' Schedule property has been rightly rejected by the Court below.

17. The next contention that was put forth by the learned Counsel for the appellants/defendants 1 and 3 was that the registered Will executed by Shanmughavel Pillai under Ex.B83 bequeathing the entire 'A' Schedule property in favour of his grandsons is true and valid and has been properly proved by sufficient evidence, as required by law. As found above, Shanmughavel Pillai as the joint owner with two others was entitled to only 1/3rd share in the 'A' Schedule property. The learned Counsel for the appellants/defendants would further urge that even assuming that Shanmughavel Pillai was entitled to 1/3rd share in the 'A' Schedule property, the bequest made under Ex.B83 would be valid to the extent of his 1/3rd share in the 'A' Schedule property. After careful scrutiny of the available evidence with regard to the execution and attestation of Ex.B83 testament, the Court has to necessarily find that the Will has not been strictly proved as required by law. While there were two attesting witnesses found under the document, D.W.4 alone has been examined. The discrepancies in the evidence of D.W.4, the only attesting witness examined, cast a doubt whether he would have been present at the time of the execution of the testament. No explanation is forthcoming why the other

attesting witness was not examined. Mere registration of a Will cannot be sufficient to hold that the said testament was true, genuine and valid. In the absence of necessary proof as to the execution and attestation of the testament, it would be difficult and unsafe to hold that Ex.B83 Will was true and genuine, and thus, the lower Court was perfectly correct in holding that Ex.B83 Will was not satisfactorily proved. In view of the discussions made above, the Court is unable to see any merit in the contentions put forth by the appellants/defendants' side.

18. Insofar as the claim made by the plaintiffs for partition in respect of 'B' Schedule, the rejection of their claim by the Court below in view of the oral and documentary evidence adduced by both sides, was perfectly correct. The specific case of the plaintiffs was that Shanmughavel Pillai, while he was in management of 'A' Schedule property, out of his income, purchased all the immovable properties covered under 'B' Schedule. Needless to say that a duty is cast upon the plaintiffs to prove that there was income from 'A' Schedule property, that too sufficient income for making acquisition of 'B' Schedule properties. In the instant case, the plaintiffs have miserably failed to discharge their burden of proving the same. But, on the contrary there is sufficient evidence to find that 'B' Schedule properties were purchased by Shanmughavel Pillai from and out of his income. The defendants have filed Exs.B22 to B28 sale deeds pertaining to 'B' Schedule properties. A perusal of those sale deeds would clearly show that the considerations passed from Shanmughavel Pillai. No material is available to infer anything contrary to the tenor or the recital of the document stating so. In respect of the said properties, pattas were issued to Shanmughavel Pillai under Exs.B32 to B35. In order to evidence the payment of kists, Exs.B36 to B70 have been filed. Under Ex.B71, Shanmughavel Pillai has purchased a motor and pumpset out of the money borrowed by him, and he has repaid the said loans. He has obtained electricity service connection in his name and has paid the electric consumption charges also, as evidenced by Exs.B72 to B75. At this juncture, it is pertinent to note that the mother of the plaintiffs Gangayee Ammal in her first notice sent in the year 1979 under Ex.A3, did not make mention anything about the 'B' Schedule properties. This would be indicative of the fact that the plaintiffs were conscious of the fact that they have nothing to do with the 'B' Schedule properties, since they belonged to Shanmughavel Pillai exclusively. Thus, the Court is unable to see any good reason to interfere in the finding recorded by the Court below that the plaintiffs are not entitled to the relief of partition asked for in respect of 'B' Schedule properties. Therefore, the judgment and decree of the lower Court have got to be necessarily sustained, and both the appeals are liable to be dismissed.

19. In the result, both the appeal suits are dismissed, leaving the parties to bear their own costs.

Index: Yes
Internet: Yes

To:
The Subordinate Judge,
Dindigul.

nsv/